

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION  
No. 4:12-CV-294-FL

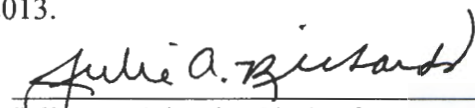
TORRICK JOHNTRELLE RODGERS, )  
)  
Plaintiff, )  
)  
v. )  
)  
WASTE INDUSTRIES INCORPORATION, )  
)  
Defendant. )

**ORDER**

On February 11, 2013, Torrick Johntrelle Rodgers (“plaintiff”), proceeding without counsel, sent a document to the court alleging that Waste Industries (“defendant”) was allowed twenty-one days to respond to his claim and had failed to do so [D.E. 9]. Plaintiff asks the court “to grant the next appropriate step in this matter.” The undersigned liberally construes plaintiff’s filing as a motion for entry of default under Rule 55(a) of the Federal Rules of Civil Procedure. See Erickson v. Pardus, 551 U.S. 89, 94 (2007); Hill v. Braxton, 277 F.3d 701, 707 (4th Cir. 2002). Rule 55(a) provides for entry of default against a party who “has failed to plead or otherwise defend.” See Fed. R. Civ. P. 55(a).

Plaintiff’s complaint is pending frivolity review under 28 U.S.C. § 1915A. Accordingly, defendant has not been served with summons or the complaint. See Fed. R. Civ. P. 4(c). Therefore, the deadline for defendant to answer or respond to plaintiff’s complaint has not expired. See Fed. R. Civ. P. 12(a)(2). Plaintiff’s motion for entry of default is premature and is thus DENIED [D.E. 9].

SO ORDERED. This 12<sup>th</sup> day of February 2013.

  
Julie A. Richards, Clerk of Court